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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,831	07/13/2001	Bernhard Budnik	04851/257561	3550

23342 7590 06/06/2005

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1001 WEST FOURTH STREET  
WINSTON-SALEM, NC 27101

EXAMINER
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TRINH, TAN H

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/830,831

Applicant(s)

BUDNIK, BERNHARD

Examiner

TAN TRINH

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 16 is/are rejected.
- 7) ☒ Claim(s) 4-15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### ***Allowable Subject Matter***

2. Claims 4-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Reasons for allowance***

3. The following is an examiner's statement of reasons for allowance:  
  
Claims 5-9 are allowed with the same reasons set forth in the previous Office action ( mailed on 6-28-2004).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3 and 16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ziv (U.S. Patent No. 6,292,662) in view of Chung (U.S. Patent No. 5,706,282).

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Regarding claims 1 and 16, Ziv teaches procedure to improve the audio quality in a mobile radio network (see fig. 1, col. 2, lines 45-58), with which a tone control that is switched into one of the communication connection's corresponding audio paths (see figs. 1-2, col. 2, lines 45-67, and col. 4, lines 34-64), that, dependent upon the types of end device(s) or equipment being used in the connection (see col. 4, lines 27-30). But Ziv fails to teach influences the audio quality in the audio path in that a frequency response of a sound in the audio path is changed.

However, Chung teaches influences the audio quality in the audio path in that a frequency response of a sound in the audio path is changed (see col. 2, line 13-col. 3, line 25, and col. 3, lines 50-62, col. 4, lines 43-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Ziv system and by the provide of the teaching of Chung on the maintained the bandwidth and power level when the audio path is changed so that the quality of audio signal of the system can be improve (see col. 3, lines 54-57 and col. 4, lines 47-50).

Regarding claim 2, Ziv teaches influences the audio quality that is different in the connection direction from the caller to the called user and from the called user to the calling user (see col. 2, lines 48-64 and col. 5, lines 3-27).

Regarding claim 3, Ziv teaches the base station control, as well as the mobile switching center, that determines the end device type (s) by query of the mobile equipment identification and assigns to the appropriate end device type corresponding pre-determined parameters, which serve to adjust the tone control (see fig. 2, col. 4, lines 27-67).

***Conclusion***

**6. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

**(703) 872-9314, (for Technology Center 2600 only)**

*Hand-delivered responses should be brought to Crystal Park II,  
2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).*

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Trinh whose telephone number is (571) 272-7888. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung, can be reached at (571) 272-7882.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Technology Center 2600 Customer Service Office** whose telephone number is **(703) 306-0377**.

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8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tan H. Trinh  
Art Unit 2684  
May 19, 2005

A handwritten signature in black ink, appearing to read "Nick Corsaro", with a long horizontal flourish extending to the right.

**NICK CORSARO  
PRIMARY EXAMINER**